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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,191	03/14/2006	Tsutomu Nagoya	K036-5722 (PCT)	2105

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EXAMINER
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HAYES, KRISTEN C

ART UNIT	PAPER NUMBER
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3643

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/566,191	<b>Applicant(s)</b> NAGOYA, TSUTOMU	
	<b>Examiner</b> Kristen C. Hayes	<b>Art Unit</b> 3643	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |



## **DETAILED ACTION**

### ***Specification***

1. The newly added paragraph contains the language of a "screw portion". It is suggested that this language be change to something such as --threaded portion-- to maintain continuity of the specification.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The claims contain the limitation of a "screw portion". In the specification this portion is described as a threaded portion, not a screw portion. The language of "screw portion" could be confused with an actual screw.

5. Claim 1 claims a screw portion in line 9. The language of the claim should be changed to clearly indicate that this screw portion is in addition or separate from the first screw portion.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Holtkamp Jr US 6,006,472.

8. Regarding claims 1 and 6, Holtkamp discloses a flowerpot having an automatic water feed function (60), comprising an outer pot (20) that has inner and outer peripheral side surfaces; and an inner pot (14, P) that has inner and outer (46) peripheral side surfaces, and having a water intake hole (Holtkamp, Figure 3, 4; column 3: lines 35-37) at a lower portion thereof, wherein the inner pot is disposed in the outer pot (Holtkamp, Figures 3, 4) with a gap between an inner peripheral surface of the outer pot and an outer peripheral surface of the inner pot, and the inner pot has at an upper portion thereof a screw portion (44) that is screwed onto a screw portion (26) at an upper portion of the outer pot so that the gap constitutes a sealed space that is isolated from the outside air, excepting the water intake hole.

9. Regarding claims 2 and 7, Holtkamp further discloses the inner pot having an outwardly extending flange (40) around the upper portion thereof and a lip (42) depending from an outer end of the flange, with the screw portion of the inner pot provided on the lip.

10. Regarding claims 3 and 8, Holtkamp further discloses the screw portion of the inner pot being provided on an inner surface of the lip and the screw portion of the outer pot being provided on an outer peripheral surface of the outer pot (Holtkamp, Figures 3, 4).

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lai US 6,363,658 (previously cited) in view of Holtkamp US 6,006,472.

13. Regarding claims 1 and 6, Lai discloses a flowerpot having an automatic water feed function (Lai, abstract), comprising an outer pot (10) that has inner and outer peripheral side surfaces; and an inner pot (20) that has inner and outer peripheral side surfaces, and having a water intake hole (210) at a lower portion thereof, wherein the inner pot is disposed in the outer pot (Lai, Figure 4), with the inner and outer pots fastened (at 12, 22) to form a gap (at H1) between an inner peripheral surface of the outer pot and an outer peripheral surface of the inner pot, with the gap constituting a sealed space that is isolated from outside air, excepting the water intake hole. Not disclosed is the inner pot and outer pots having screw portions. Holtkamp teaches an inner pot having a screw at an upper portion and an outer pot having a corresponding screw portion at an upper portion. (Holtkamp, Figures 3, 4). It would have been obvious to one of ordinary skill in the art to modify the fastener of Lai with the known screw fastener of Holtkamp as to provide a more secure fastener between the two pots of Lai.

14. Regarding claims 2, 3, 7 and 8, Lai further discloses the inner pot having an outwardly extending flange (22) around the upper portion thereof and a lip (220) depending from an outer end of the flange. Holtkamp further discloses with the screw portion of an inner pot provided on the inner surface of a lip (42) and a screw portion of an outer pot being provided on an outer peripheral surface of the outer pot (Holtkamp, Figures 3, 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to place the screw portion of the inner pot on the inner surface of the lip of Lai and a corresponding screw portion on the outer peripheral surface of the outer pot as to provide a more secure fit between the pots.

15. Regarding claims 4, 5, 9 and 10, Lai in view of Holtkamp further discloses the inner pot having a bottom that contacts a bottom of the outer pot (Lai, Figure 4).

### ***Response to Arguments***

16. Applicant's arguments filed 10/17/2008, with respect to the rejection(s) of claim(s) 1 under Potochnik have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Lai and Holtkamp, above.

### ***Conclusion***

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen C. Hayes whose telephone number is 571-270-3093. The examiner can normally be reached on Monday-Thursday, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571)272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KCH  
6 January 2009

Peter Poon  
Examiner  
Art Unit 3643

/Peter M. Poon/  
Supervisory Patent Examiner, Art Unit 3643